

Page 1

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

ROGER DEAN BANDY, :

:

Plaintiff :

:

-vs- :CASE NO. 7:11-CV-365

:

ADVANCE AUTO PARTS, INC., :

:

Defendant :

July 24, 2012
2:00 p.m.

DEPOSITION OF:
BARBARA A. MYERS

CENTRAL VIRGINIA REPORTERS
PO BOX 12628
ROANOKE, VIRGINIA
(540)380-5017

Page 3

EXHIBITS

NUMBER	DESCRIPTION	PAGE
3	Cassandra Hall statement	20
4	Kevin Gray statement	22
5	John King statement	23
6	Roger Bandy statement	23
7	Becky Walker statement	24
8	John Smith, team member action report	25
9	Documents re: Gary Miller, Jonathan Brubaker and Chase Rexroad statement	31
10	Carl Pernal, yearly performance evaluation	40
11	Carl Pernal, final corrective interview	42
12	Carl Pernal performance evaluation, 2009	43
13	Warren Smith, final corrective interview	53
14	Warren Smith, evaluation form, 2007	59
16	Warren Smith, annual performance evaluation, 2008	62
16	Incidents of workplace hostility, violence, and aggression	64
17	Attendance policy addendum	71
18	Tobacco policy	73
19	United Way form	75

Page 2

1 APPEARANCES:

2
3 STRICKLAND, DIVINEY & STRELKA
Roanoke, Virginia

4 By: THOMAS E. STRELKA, ESQ.

5 Counsel on behalf of the Plaintiff

6 WOODS ROGERS

Roanoke, Virginia

7 By: AGNIS CHAKRAVORTY, ESQ.

8 ERIN ASHWELL, ESQ.

9 Counsel on behalf of the Defendant

10 ALSO PRESENT: Jack Daniels

11 * * * * *

12 INDEX

13 EXAMINATION OF BARBARA A. MYERS

14 By Mr. Strelka 5, 102

15 By Mr. Chakravorty 82

16 * * * * *

17 EXHIBITS

18 NUMBER DESCRIPTION PAGE

19
20
21
22 1 Description of general
warehouse worker 14

23 2 Gregg Henderson statement 20

24

Page 4

1 The deposition of Barbara A. Myers was taken at
2 the law offices of Woods Rogers, Roanoke, Virginia,
3 on the 24th day of July, 2012, in the presence of
Thomas E. Strelka, Attorney for the Plaintiff, and
Agnis Chakravorty and Erin Ashwell, Attorneys for
the Defendant.

4 All formalities as to caption, certificate and
5 Notice of Filing were waived. It was agreed that
6 Patricia D. Ahern, Notary Public in and for the
7 Commonwealth of Virginia, at Large, would take said
8 deposition in machine shorthand and reduce the same
9 to writing by means of Computer-Aided
10 Transcription.

11 Said deposition was taken subject alone to the
12 objections that are required by the Rules of the
13 Supreme Court of Virginia to be made at the time
14 that the deposition is taken. All other objections
15 are reserved until the Trial.

16
17 BARBARA A. MYERS
18 was called as a witness and after having first been
19 duly sworn to tell the truth, the whole truth, and
20 nothing but the truth, was examined and testified
21 as follows:

22 EXAMINATION

23
24 BY MR. STRELKA:

Page 5

1 Q Good afternoon, Ms. Myers. I
2 appreciate you being here. As I said before, no
3 one likes to take their afternoon sitting around
4 with a bunch of attorneys, so I appreciate you
5 comports with the requirements of the subpoena.
6 Mr. Bandy appreciates your participation. And it
7 is my understanding you are going on vacation after
8 this?

9 A Yes.

10 Q I hope you have a wonderful
11 vacation after this. We will try to keep this
12 short and sweet and not stray too far.

13 Could you please state your entire
14 legal name for the record.

15 A Barbara Anne Vandergrift Myers.

16 Q Where do you work?

17 A Advance Auto Parts.

18 Q When did you begin working there?

19 A April 23, 1990.

20 Q What is your current title?

21 A I am reclamation first shift team
22 manager.

23 Q And do you recall an individual at
24 work by the name of Roger Bandy?

Page 6

1 A Yes, I do.

2 Q How do you know him?

3 A He worked in the reclamation
4 department when I was transferred to that
5 department.

6 Q I apologize, I'm going shift a
7 little bit right here, just some preliminary
8 things.

9 I am sure most likely your
10 attorneys have already informed you as to this.
11 Because we have a court reporter here today, and
12 she can only type what one person is saying at a
13 time, I would ask that you listen to the question
14 completely and then give your answer.

15 It is normal human nature for
16 people to talk over each other in a conversation,
17 so this is going to be a little stilted, because
18 she can only type up what one person is saying. Is
19 that okay?

20 A That is fine.

21 Q You understand?

22 A Yes, sir.

23 Q I would also ask that if the
24 answer to a question I am asking is a yes or a no,

Page 7

1 that you articulate, you say yes or no, and that
2 you do not say uh-huh or huh-uh because that can
3 get confusing for the court reporter. If she
4 mistakes a huh-uh for an uh-huh, you can imagine
5 the problems we can get into in the transcript.

6 Do you understand?

7 A Yes.

8 Q Furthermore, if you wish to take a
9 break, use the bathroom, get a drink, whatever you
10 need to do, just let me know if you need to take a
11 break, okay?

12 A Yes.

13 Q If I ask a question and you wish
14 to take a break, that is fine, you can take a
15 break, but you must answer my question before you
16 take a break. Is that understood?

17 A Yes.

18 Q And the last, my favorite
19 question: Are you under any sort of substance or
20 medication today that might affect your testimony?

21 A No.

22 Q Thank you very much. So you just
23 informed us how you knew Roger Bandy. Are you
24 familiar with when Mr. Bandy began working for

Page 8

1 Advance Auto?

2 A Yes.

3 Q It is my understanding that you
4 were one of Mr. Bandy's direct managers; is that
5 correct?

6 A Yes.

7 Q When you were his direct manager,
8 what did Mr. Bandy do for Advance Auto?

9 A He did numerous things. He
10 operated a forklift. He worked our core area. He
11 worked our defect area. There was times when he
12 helped break trailers.

13 Q As his direct manager, were you in
14 a position to observe his work product?

15 A Yes.

16 Q As his direct manager, did you
17 ever assist in the drafting of work performance
18 evaluations?

19 A Yes.

20 Q For Mr. Bandy?

21 A Yes.

22 Q Are you aware of Mr. Bandy being
23 transferred to a certain position at Advance Auto
24 in 2009?

<p style="text-align: right;">Page 9</p> <p>1 MR. CHAKRAVORTY: Objection as to</p> <p>2 form.</p> <p>3</p> <p>4 BY MR. STRELKA:</p> <p>5 Q Even if he objects, you still have</p> <p>6 to answer my question.</p> <p>7 A No.</p> <p>8 Q Do you know where Mr. Bandy was</p> <p>9 working in 2009?</p> <p>10 A He was working in the reclamation</p> <p>11 department.</p> <p>12 Q Was he working as a warehouse</p> <p>13 worker at that time?</p> <p>14 A Yes.</p> <p>15 Q 2009?</p> <p>16 A Yes.</p> <p>17 Q Could you describe for me the job</p> <p>18 duties Mr. Bandy had working in the reclamation</p> <p>19 department at Advance Auto as a warehouse worker in</p> <p>20 2009?</p> <p>21 A Well, it could vary from day to</p> <p>22 day. He could have, like I said, been operating a</p> <p>23 forklift, moving boxes of work to and from team</p> <p>24 members that would be working the cores. He could</p>	<p style="text-align: right;">Page 11</p> <p>1 have overstock, which is product that is going back</p> <p>2 into our inventory in the warehouse.</p> <p>3 Q Are there employees at Advance</p> <p>4 Auto that just work in a particular section of the</p> <p>5 reclamation department?</p> <p>6 A No. They are moved around.</p> <p>7 Q So your testimony is that anyone</p> <p>8 who works in the reclamation department doesn't</p> <p>9 work in just one area?</p> <p>10 A They can be moved, yes.</p> <p>11 Q In this case, I don't know if you</p> <p>12 have read the complaint or any of the documents</p> <p>13 that have been shifted back and forth in this case,</p> <p>14 but the Plaintiff, Mr. Bandy, has indicated that he</p> <p>15 was working in the reclamation department in 2009,</p> <p>16 but that he was transferred to the defect section</p> <p>17 in January of 2010. Do you find that to be an</p> <p>18 accurate statement?</p> <p>19 MR. CHAKRAVORTY: Hold on one</p> <p>20 second. Let me make an objection and</p> <p>21 make it a continuing one.</p> <p>22 MR. STRELKA: Sure.</p> <p>23 MR. CHAKRAVORTY: I don't want to</p> <p>24 keep doing it. That part of the lawsuit</p>
<p style="text-align: right;">Page 10</p> <p>1 have been working in the defect area where he would</p> <p>2 be scanning the product, putting it where it goes</p> <p>3 per vendor, or he could have been on the dock</p> <p>4 breaking trailers at any given time.</p> <p>5 Q At this time in 2009, we are</p> <p>6 discussing the reclamation department. Am I saying</p> <p>7 that correctly?</p> <p>8 A Yes.</p> <p>9 Q Are there any divisions or</p> <p>10 different sections of the reclamation department?</p> <p>11 A There is different areas, but it</p> <p>12 is all one department.</p> <p>13 Q Could you describe the different</p> <p>14 areas that are in the reclamation department?</p> <p>15 A We have our core area where they</p> <p>16 process the cores that are returned from the</p> <p>17 stores. We have the dock area where we break the</p> <p>18 trailers with the returns that are coming back from</p> <p>19 the stores where the trailers are broken and sorted</p> <p>20 based on where they are going.</p> <p>21 We have a defect area where all</p> <p>22 the defects go that have to be processed. We have</p> <p>23 a callback area where callbacks are processed to be</p> <p>24 sent back to the vendor, which is new product. We</p>	<p style="text-align: right;">Page 12</p> <p>1 has been stricken. I am going to make</p> <p>2 the objection. The judge has already</p> <p>3 ruled, so I object to the line of</p> <p>4 testimony.</p> <p>5 Go ahead and answer. You might</p> <p>6 want to rephrase the question.</p> <p>7</p> <p>8 BY MR. STRELKA:</p> <p>9 Q Why don't you go ahead and answer.</p> <p>10 A There is no such thing as a</p> <p>11 transfer from one part of reclamation to the other.</p> <p>12 Q Okay. So --</p> <p>13 A It is all general warehouse</p> <p>14 worker.</p> <p>15 Q So Mr. Bandy was never assigned to</p> <p>16 work just in the defect section?</p> <p>17 A No, sir.</p> <p>18 Q Are you aware of any employees at</p> <p>19 Advance Auto that worked just in the defect</p> <p>20 section?</p> <p>21 A No, sir.</p> <p>22 Q So any employee that does work in</p> <p>23 the defect section also works, as you said, in</p> <p>24 other sections?</p>

<p style="text-align: right;">Page 13</p> <p>1 A Yes.</p> <p>2 Q If an employee at Advance Auto is</p> <p>3 working in the defect section -- and I know it is</p> <p>4 not only in the defect section. But if an employee</p> <p>5 at Advance Auto is working only in the defect</p> <p>6 section, what type of job duties are specific to</p> <p>7 the defect section of the reclamation department?</p> <p>8 A We get product back from the</p> <p>9 stores in totes and in a Gaylord box. The product</p> <p>10 has to be sorted and put on a cart, and then they</p> <p>11 are scanned. They have a tag on them, and then</p> <p>12 they are scanned to the vendor box or thrown away</p> <p>13 if it is a store-in-field product. That is what</p> <p>14 they do in defects.</p> <p>15 Q Working in the defect section, if</p> <p>16 an employee was working in the defect section, does</p> <p>17 that job require heavy lifting?</p> <p>18 A Each section requires lifting.</p> <p>19 Q So anyone who works in the</p> <p>20 reclamation department is going to have to lift</p> <p>21 things?</p> <p>22 A Yes.</p> <p>23</p> <p>24 (Deposition Exhibit Number 1</p>	<p style="text-align: right;">Page 15</p> <p>1 A I couldn't say equally, but moved</p> <p>2 around.</p> <p>3 Q Could you give me any idea as to</p> <p>4 time by Mr. Bandy spent in any of these sections?</p> <p>5 In other words, what I am trying to get at is: Did</p> <p>6 Mr. Bandy work in any one section more than any</p> <p>7 other section?</p> <p>8 A I would say yes.</p> <p>9 Q What section would he have worked</p> <p>10 more in?</p> <p>11 A When I first came back to the</p> <p>12 reclamation department, he worked the core area.</p> <p>13 Q When was that?</p> <p>14 A Six years ago, somewhere like</p> <p>15 that.</p> <p>16 Q Did that maintain through the time</p> <p>17 of his termination?</p> <p>18 A No. We -- no, it did not.</p> <p>19 Q How did it change?</p> <p>20 A We started cross-training more.</p> <p>21 Everyone became involved in the cross-training to</p> <p>22 make us more valuable, get all the general</p> <p>23 warehouse workers where they could help each other.</p> <p>24 Q Could you define the term</p>
<p style="text-align: right;">Page 14</p> <p>1 was marked for identification.)</p> <p>2</p> <p>3 BY MR. STRELKA:</p> <p>4 Q I am now handing you a document</p> <p>5 that has been labeled Exhibit 1. Do you recognize</p> <p>6 that document?</p> <p>7 A Yes.</p> <p>8 Q What is that document?</p> <p>9 A That is a description of what a</p> <p>10 general warehouse worker job entails.</p> <p>11 Q Would this description have</p> <p>12 applied to Roger Bandy's position when he worked</p> <p>13 for Advance Auto?</p> <p>14 MR. CHAKRAVORTY: Objection as to</p> <p>15 form.</p> <p>16 THE WITNESS: Yes.</p> <p>17</p> <p>18 BY MR. STRELKA:</p> <p>19 Q Are you aware if Mr. Bandy worked</p> <p>20 in any particular section of the reclamation</p> <p>21 department more so than any other?</p> <p>22 A Not really, no.</p> <p>23 Q So is it then your testimony that</p> <p>24 he worked in all the different sections equally?</p>	<p style="text-align: right;">Page 16</p> <p>1 cross-training as you just used it?</p> <p>2 A We would cross-train people that</p> <p>3 had never used an RF scanner before. So we</p> <p>4 introduced RF scanners to team members, how to</p> <p>5 process overstocks.</p> <p>6 If you had never worked in</p> <p>7 callbacks, we had people trained to work in</p> <p>8 callbacks. Same way as breaking trailers, defects,</p> <p>9 overstock. It was a rotation system.</p> <p>10 Q Have you ever received any</p> <p>11 complaints from any of your employees working in</p> <p>12 the defect section?</p> <p>13 A No, sir.</p> <p>14 Q That would include Mr. Bandy?</p> <p>15 A Yes.</p> <p>16 Q At the time of his termination,</p> <p>17 are you aware if Mr. Bandy was offered any</p> <p>18 severance from Advance Auto?</p> <p>19 A I was not involved in that.</p> <p>20 Q So you don't know?</p> <p>21 A I do not know.</p> <p>22 Q Do you know why Mr. Bandy was</p> <p>23 terminated from Advance Auto?</p> <p>24 A Yes.</p>

<p style="text-align: right;">Page 17</p> <p>1 Q Why was that?</p> <p>2 A He was involved in an incident</p> <p>3 with another team member which was against our</p> <p>4 policy of threatening and intimidation.</p> <p>5 Q Who was that other team member?</p> <p>6 A John King.</p> <p>7 Q Could you describe the incident?</p> <p>8 A I didn't witness --</p> <p>9 MR. CHAKRAVORTY: Objection as to</p> <p>10 form. Go ahead.</p> <p>11 THE WITNESS: I did not witness</p> <p>12 the incident. I only know what I was</p> <p>13 told.</p> <p>14</p> <p>15 BY MR. STRELKA:</p> <p>16 Q What were you told?</p> <p>17 A I had another team member come to</p> <p>18 me visibly shaken up, that she had overheard</p> <p>19 Mr. Bandy and John King arguing and Mr. Bandy</p> <p>20 shaking his fist. And she was visibly shook up</p> <p>21 about it. She was nervous that they were going to</p> <p>22 come to blows.</p> <p>23 So I called my manager, who -- his</p> <p>24 office was right upstairs above mine, and he came</p>	<p style="text-align: right;">Page 19</p> <p>1 Q Why did it surprise you?</p> <p>2 A Because he was a fairly quiet man.</p> <p>3 Q What about Mr. King?</p> <p>4 A He was quiet as well. They</p> <p>5 usually just went in there and did their jobs.</p> <p>6 Q What kind of worker was Mr. Bandy?</p> <p>7 A He was a very good worker.</p> <p>8 Q What kind of worker was Mr. King?</p> <p>9 A Very good worker.</p> <p>10 Q And so this is the incident that</p> <p>11 led to Mr. Bandy's termination?</p> <p>12 A Yes, sir.</p> <p>13 Q Do you know of any other witnesses</p> <p>14 who observed this incident?</p> <p>15 A Yes, sir.</p> <p>16 Q Who was that?</p> <p>17 A Kevin Gray.</p> <p>18 Q What is his title?</p> <p>19 A General warehouse worker.</p> <p>20 Q Do you know if Mr. King was</p> <p>21 terminated as a result of this incident?</p> <p>22 A Yes.</p> <p>23 Q He was?</p> <p>24 A Yes.</p>
<p style="text-align: right;">Page 18</p> <p>1 downstairs and addressed the situation.</p> <p>2 Q Who was this employee that told</p> <p>3 you about this incident?</p> <p>4 A Cassandra Hall.</p> <p>5 Q What is her title?</p> <p>6 A She is a general warehouse worker.</p> <p>7 Q Who was the employee at Advance</p> <p>8 Auto that you reported this to?</p> <p>9 A Greg Henderson.</p> <p>10 Q His title?</p> <p>11 A At the time, he was reclamation</p> <p>12 manager.</p> <p>13 Q Do you know what the sum and</p> <p>14 substance of this argument or altercation was about</p> <p>15 between the two gentlemen?</p> <p>16 A Only what I was told, that it was</p> <p>17 over the miners that was caught in the cave over in</p> <p>18 Chile.</p> <p>19 Q Are you aware of any other</p> <p>20 altercation that Mr. Bandy may have been involved</p> <p>21 in at Advance Auto other than this incident?</p> <p>22 A No, sir.</p> <p>23 Q Did this surprise you?</p> <p>24 A Yes.</p>	<p style="text-align: right;">Page 20</p> <p>1 Q Was there an investigation of this</p> <p>2 incident?</p> <p>3 A Yes it was.</p> <p>4</p> <p>5 (Deposition Exhibit Number 2</p> <p>6 was marked for identification.)</p> <p>7</p> <p>8 BY MR. STRELKA:</p> <p>9 Q The court reporter has just handed</p> <p>10 you a document labeled Exhibit 2. I would like to</p> <p>11 ask you to look at this document for me. Do you</p> <p>12 recognize that document?</p> <p>13 A Yes, sir.</p> <p>14 Q What is that document?</p> <p>15 A It is the statement that Greg</p> <p>16 Henderson made at the time of the incident.</p> <p>17</p> <p>18 (Deposition Exhibit Number 3</p> <p>19 was marked for identification.)</p> <p>20</p> <p>21</p> <p>22 BY MR. STRELKA:</p> <p>23 Q The court reporter has just handed</p> <p>24 you a document that we have labeled Exhibit 3. Do</p>

<p style="text-align: right;">Page 21</p> <p>1 you recognize this document?</p> <p>2 A Yes, sir.</p> <p>3 Q What is this document?</p> <p>4 A It is the statement that Cassandra</p> <p>5 Hall made.</p> <p>6 Q Is this her handwriting?</p> <p>7 A Yes, sir.</p> <p>8 Q What does the statement regard?</p> <p>9 A The incident between John King and</p> <p>10 Roger Bandy.</p> <p>11 Q Do you feel that this note is</p> <p>12 reflective of what Ms. Hall told you verbally about</p> <p>13 the incident?</p> <p>14 A I do.</p> <p>15 Q Do you recall anything that she</p> <p>16 may have said about the incident that is not</p> <p>17 contained in this note?</p> <p>18 A No, sir.</p> <p>19 Q Do you recall Ms. Hall ever making</p> <p>20 a complaint about any other altercation at Advance</p> <p>21 Auto?</p> <p>22 A No, sir, I do not.</p> <p>23 Q Do you recall Ms. Hall making a</p> <p>24 complaint about anybody regarding anything at</p>	<p style="text-align: right;">Page 23</p> <p>1 was marked for identification.)</p> <p>2</p> <p>3 BY MR. STRELKA:</p> <p>4 Q I would like you to take a look at</p> <p>5 the document that has been labeled Exhibit 5. Do</p> <p>6 you recognize this document?</p> <p>7 A Yes, sir.</p> <p>8 Q What is this document?</p> <p>9 A It is the statement that John King</p> <p>10 made.</p> <p>11 Q Is it your understanding that that</p> <p>12 is his handwriting?</p> <p>13 A Yes, sir.</p> <p>14</p> <p>15 (Deposition Exhibit Number 6</p> <p>16 was marked for identification.)</p> <p>17</p> <p>18 BY MR. STRELKA:</p> <p>19 Q The court reporter has now handed</p> <p>20 you a document that has been labeled Exhibit 6. Do</p> <p>21 you recognize this document?</p> <p>22 A Yes, sir.</p> <p>23 Q What is this document?</p> <p>24 A It is the statement that Mr. Bandy</p>
<p style="text-align: right;">Page 22</p> <p>1 Advance Auto?</p> <p>2 A No, sir.</p> <p>3 Q So this was the first?</p> <p>4 A To my knowledge, that I remember.</p> <p>5 Q It would be a first for Mr. Bandy</p> <p>6 too, wouldn't it?</p> <p>7 A Yes.</p> <p>8</p> <p>9 (Deposition Exhibit Number 4</p> <p>10 was marked for identification.)</p> <p>11</p> <p>12 BY MR. STRELKA:</p> <p>13 Q The court reporter has just handed</p> <p>14 you a two-page document that has been labeled</p> <p>15 Exhibit 4. Do you recognize this document?</p> <p>16 A Yes, sir.</p> <p>17 Q What is this document?</p> <p>18 A It is the statement that Kevin</p> <p>19 Gray made about the incident involving Mr. Bandy</p> <p>20 and John.</p> <p>21 Q Is this Mr. Gray's handwriting?</p> <p>22 A Yes, it is.</p> <p>23</p> <p>24 (Deposition Exhibit Number 5</p>	<p style="text-align: right;">Page 24</p> <p>1 made.</p> <p>2 Q This is regarding the incident,</p> <p>3 the altercation, with Mr. King?</p> <p>4 A Yes, sir.</p> <p>5 Q It is your understanding that that</p> <p>6 is Mr. Bandy's handwriting?</p> <p>7 A Yes.</p> <p>8</p> <p>9 (Deposition Exhibit Number 7 was</p> <p>10 marked for identification.)</p> <p>11</p> <p>12 BY MR. STRELKA:</p> <p>13 Q You have just been handed a</p> <p>14 document that has been labeled Exhibit 7. Do you</p> <p>15 recognize that document?</p> <p>16 A I have never seen this before.</p> <p>17 Q Okay. Do you see the name at</p> <p>18 bottom of the document?</p> <p>19 A Yes.</p> <p>20 Q Becky Walker?</p> <p>21 A Yes.</p> <p>22 Q Who is Becky Walker?</p> <p>23 A She is our HR at Blue Hills.</p> <p>24 Q Is she the director of HR?</p>

Page 25

1 A I don't know.
 2 Q You don't know her title?
 3 A No.
 4 Q But you know that she works in HR
 5 at Advance Auto?
 6 A Yes.
 7 Q Do you know if she was involved in
 8 any way in an investigation of the incident?
 9 A No, I do not.
 10 Q Did you ever speak with Ms. Walker
 11 about the incident itself?
 12 A No, I did not.
 13 Q Do you know if that is Ms.
 14 Walker's handwriting?
 15 A Yes.
 16 Q That is Ms. Walker's handwriting?
 17 A Yes.
 18
 19 (Deposition Exhibit Number 8
 20 was marked for identification.)
 21
 22 BY MR. STRELKA:
 23 Q You have just been handed a
 24 document labeled Exhibit 8. Do you recognize this

Page 26

1 document?
 2 A I have never seen this particular
 3 document.
 4 Q You note at the top it says team
 5 member action report? Do you see that?
 6 A Yes.
 7 Q Do you know what a team member
 8 action report is?
 9 A Yes.
 10 Q What is a team action report?
 11 A That is a report that we fill out
 12 for numerous things involving a team member.
 13 Q When you say numerous things,
 14 would that include disciplinary actions?
 15 A Yes.
 16 Q If I represented to you that this
 17 was a team member action report that was generated
 18 as a result of the incident in question, would you
 19 have any doubt that that is what that document is?
 20 A No, I would not.
 21 Q Do you see the name at the bottom
 22 of the document?
 23 A Yes, sir.
 24 Q Who is John Smith?

Page 27

1 A He is my boss. He is inbound
 2 manager.
 3 Q You see under the heading it says,
 4 Give full explanation of action taken. Below that
 5 it states, We completed an extensive investigation.
 6 You were involved in that investigation, were you
 7 not?
 8 A No, sir.
 9 Q Were you ever asked any questions
 10 by Mr. Smith in regards to the investigation?
 11 A No.
 12 Q Do you know of anyone who was
 13 asked questions by Mr. Smith or anyone in the
 14 administration regarding the investigation?
 15 A Just Mr. Bandy and John King.
 16 Q Do you know if -- so those are the
 17 only people that you know --
 18 A That I know.
 19 Q -- were asked questions?
 20 A Yes.
 21 Q Do you know approximately when the
 22 investigation began?
 23 A The day of the incident was in the
 24 afternoon, and Cassandra made her statement that

Page 28

1 afternoon, and then it continued the next morning,
 2 the next day.
 3 Q It goes on further beyond the
 4 words extensive investigation. It says, Including
 5 two witness statements, which are all on file. Do
 6 you know what witness statements to which that is
 7 referring?
 8 A That would be Cassandra Hall and
 9 Kevin Gray.
 10 Q Do you know of anyone else having
 11 made a witness statement that may not be in that
 12 file?
 13 A No, I do not.
 14 Q Are you aware of any employee or
 15 employees who replaced Mr. Bandy after he was
 16 terminated?
 17 A Yeah. The positions were open for
 18 bid.
 19 Q Do you know who was hired?
 20 A Oh, my. No, I do not. I'm sorry.
 21 Q That's okay. You can only testify
 22 as to what you know. That is all I want is what
 23 you know.
 24 A I can't get the dates straight in

<p style="text-align: right;">Page 29</p> <p>1 my head.</p> <p>2 Q That's okay. Neither can I half</p> <p>3 the time. So you could not identify here today who</p> <p>4 Mr. Bandy's replacement was?</p> <p>5 MR. CHAKRAVORTY: Objection as to</p> <p>6 form.</p> <p>7 THE WITNESS: No.</p> <p>8</p> <p>9 BY MR. STRELKA:</p> <p>10 Q Do you know the ages of any of the</p> <p>11 individuals who may have replaced Mr. Bandy?</p> <p>12 MR. CHAKRAVORTY: Objection as to</p> <p>13 form.</p> <p>14 THE WITNESS: I cannot remember</p> <p>15 who bid it in at that time.</p> <p>16</p> <p>17 BY MR. STRELKA:</p> <p>18 Q I know you say you can't remember</p> <p>19 who.</p> <p>20 A Uh-huh.</p> <p>21 Q But that may be because you just</p> <p>22 don't remember their name?</p> <p>23 A Right.</p> <p>24 Q Do you know if any of the</p>	<p style="text-align: right;">Page 31</p> <p>1 Q He was older than 60; is that</p> <p>2 right?</p> <p>3 A Yes.</p> <p>4</p> <p>5 (Deposition Exhibit Number 9</p> <p>6 was marked for identification.)</p> <p>7</p> <p>8 BY MR. STRELKA:</p> <p>9 Q You have now been handed a</p> <p>10 three-page document that has collectively been</p> <p>11 identified as Exhibit 9. I would like you to take</p> <p>12 a moment and look at this document.</p> <p>13 A Okay.</p> <p>14 Q Do you recognize this document?</p> <p>15 A I have never seen it before.</p> <p>16 Q Do you see the name on the first</p> <p>17 page?</p> <p>18 A Yes.</p> <p>19 Q Gary Miller?</p> <p>20 A Yes.</p> <p>21 Q Who is Gary Miller?</p> <p>22 A He is one of our team members in</p> <p>23 the reclamation department.</p> <p>24 Q Was he Mr. Bandy's replacement?</p>
<p style="text-align: right;">Page 30</p> <p>1 individual or individuals who replaced Mr. Bandy --</p> <p>2 strike that. I am going to repeat my question from</p> <p>3 earlier.</p> <p>4 Do you know the ages of any of the</p> <p>5 individuals or individual who replaced Mr. Bandy?</p> <p>6 A No.</p> <p>7 Q Do you know the approximate age of</p> <p>8 any of those individuals?</p> <p>9 MR. CHAKRAVORTY: Objection as to</p> <p>10 form.</p> <p>11 THE WITNESS: No.</p> <p>12</p> <p>13 BY MR. STRELKA:</p> <p>14 Q Do you know if any of the</p> <p>15 individual or individuals who replaced Mr. Bandy</p> <p>16 were younger than Mr. Bandy?</p> <p>17 MR. CHAKRAVORTY: Objection as to</p> <p>18 form.</p> <p>19 THE WITNESS: I would say yes.</p> <p>20</p> <p>21 BY MR. STRELKA:</p> <p>22 Q Are you aware of Mr. Bandy's age</p> <p>23 at the time of his termination?</p> <p>24 A I don't, no.</p>	<p style="text-align: right;">Page 32</p> <p>1 MR. CHAKRAVORTY: Objection as to</p> <p>2 form.</p> <p>3 THE WITNESS: I am not sure.</p> <p>4</p> <p>5 BY MR. STRELKA:</p> <p>6 Q Is Mr. Miller younger than</p> <p>7 Mr. Bandy?</p> <p>8 A Yes.</p> <p>9 Q Do you know the age of Mr. Miller?</p> <p>10 A No.</p> <p>11 Q Do you know if Mr. Miller is</p> <p>12 younger than the age of 40?</p> <p>13 A No, I do not know.</p> <p>14 Q But you know that he was younger</p> <p>15 than Mr. Bandy?</p> <p>16 A Yes.</p> <p>17 Q On the next page that has been --</p> <p>18 just so you know, I may refer to some of these</p> <p>19 pages as having a BATES label. I might say the</p> <p>20 page has a BATES label. That is the little number</p> <p>21 in the bottom right corner.</p> <p>22 A Okay.</p> <p>23 Q So right now I am saying I would</p> <p>24 like you to take a look at the page that is BATES</p>

Page 33

1 labeled 1393. It is the second page of this
 2 exhibit.
 3 A All right.
 4 Q Do you see the name at the top of
 5 that page?
 6 A Yes.
 7 Q Jonathan Brubaker?
 8 A Yes.
 9 Q Do you know him?
 10 A Yes.
 11 Q He works for Advance Auto?
 12 A Yes, he does.
 13 Q What does he do there?
 14 A He is a general warehouse worker.
 15 Q Did he replace Mr. Bandy?
 16 MR. CHAKRAVORTY: Objection to
 17 form.
 18 THE WITNESS: I'm not sure.
 19
 20 BY MR STRELKA:
 21 Q Do you know if he is younger than
 22 Mr. Bandy?
 23 A Yes, he is.
 24 Q Do you know the age of

Page 34

1 Mr. Brubaker?
 2 A No, I do not.
 3 Q Do you know if Mr. Brubaker is
 4 younger than age 40?
 5 A I do not know.
 6 Q You can probably guess where we
 7 are going for the third page of the exhibit.
 8 A Yes.
 9 Q Do you see the name at the top of
 10 the page of what has been BATES labeled 1394?
 11 A Yes.
 12 Q Chase Rexroad?
 13 A Yes.
 14 Q Am I saying that right?
 15 A Yes.
 16 Q Do you know if Mr. Rexroad
 17 replaced Mr. Bandy?
 18 A No, I do not.
 19 Q Do you know if Mr. Rexroad was
 20 younger than Mr. Bandy?
 21 A Yes, he is.
 22 Q Do you know if Mr. Rexroad is
 23 younger than the age of 40?
 24 A Yes, he is.

Page 35

1 Q All three of these workers work in
 2 the reclamation department?
 3 A Yes.
 4 Q Okay. Thank you.
 5 Do you know an individual by the
 6 name of Carl Pernal or Pernal?
 7 A Pernal.
 8 Q Is that how you say it, Pernal?
 9 A Yes.
 10 Q What did he do for Advance Auto?
 11 A At one time he worked in
 12 receiving, at one time he worked in the guard
 13 house, and then he was in reclamation.
 14 Q Was he terminated from Advance
 15 Auto?
 16 A Yes, he was.
 17 Q What was the last position that he
 18 had at Advance Auto prior to his termination?
 19 A He was a general warehouse worker
 20 in the reclamation department.
 21 Q So he was in essentially the same
 22 position as Mr. Bandy?
 23 A Yes, sir.
 24 Q Do you know how old Mr. Pernal

Page 36

1 was?
 2 A No, I do not know.
 3 Q Do you know if he was over the age
 4 of 40?
 5 A Oh, yes.
 6 Q Would you say he was close in age
 7 to Mr. Bandy?
 8 A I would say yes, but it is a
 9 guess.
 10 Q Did you know why Mr. Pernal was
 11 terminated?
 12 A He did not meet performance
 13 standards.
 14 Q What standards did he not meet?
 15 A We have -- I don't know how to
 16 describe it. We have standards that in almost
 17 every area in the reclamation department to meet an
 18 expected -- an expectation to meet, and he failed
 19 to meet those.
 20 Q Can you recall any of those
 21 expectations at this time?
 22 A We enter data, and it gives a
 23 percentage of an assignment. You have an
 24 assignment, okay? And you key that in, and it

Page 37

1 gives you a percentage of the time from he started
2 the assignment until the time he ended of what his
3 performance was.

4 Q When you say entered in, could you
5 describe --

6 A Into the computer. It is a
7 database.

8 Q Is that --

9 A A program.

10 Q I want to just -- I appreciate you
11 being very forthcoming with these answers, but just
12 in the last couple times, you have talked over me.

13 A I am sorry.

14 Q It is okay. It is the normal way
15 of talking.

16 How, specifically, would
17 Mr. Pernal enter in his time in which he was
18 working on or completing a task?

19 A It is done by the RF from the time
20 you scan the first piece until you scan your last
21 piece.

22 Q So Mr. Pernal had a personal
23 scanner along with him?

24 A Yes.

Page 38

1 Q And that scanner -- does everyone
2 in the reclamation department have a similar
3 scanner?

4 A Yes -- not everyone, no, depending
5 on your job of what you are doing that day.

6 Q Would Mr. Bandy have had such a
7 scanner?

8 A Yes.

9 Q This scanner and the way that the
10 time is computed, this is -- the number generated
11 is used by Advance Auto to determine productivity;
12 is that correct?

13 A Yes.

14 Q Would you refer to that number as
15 a standard?

16 A Yes.

17 Q Do you know if Mr. Pernal was ever
18 put on any sort of performance improvement plan?

19 A Yes.

20 Q Would that have been called the
21 LMS achievement plan?

22 A Yes.

23 Q What is the LMS achievement plan?

24 A It is where we do observations and

Page 39

1 work with the individual team members, and we
2 observe them from the start to the finish of
3 assignments. We watch how they handle the product.
4 We have best practices of how to do the job. Make
5 sure the team member is doing the job. We coach
6 them and mentor them, show them things they could
7 do to improve their performance, and we make
8 suggestions to them.

9 Q What does LMS stand for?

10 A Labor management system.

11 Q Do you know if Mr. Pernal improved
12 after the LMS achievement plan was executed?

13 A He did not.

14 Q And that is why he was terminated?

15 A Yes. He did not always practice
16 what we showed him.

17 Q Was Mr. Pernal put in the
18 reclamation department in order that he would fail
19 and be terminated?

20 A No.

21 Q Was Mr. Bandy put in the
22 reclamation department in order that he would fail
23 and thus be terminated?

24 A No.

Page 40

1 Q Whose decision was it to terminate
2 Mr. Pernal?

3 A It was the process of the program.
4 Each level of disciplinary had been done, and then
5 it was covered by our manager.

6 Q Who was that?

7 A Greg Henderson.

8 Q Did you have any input as to that
9 decision?

10 A Yes.

11 Q Did anyone else have any input as
12 to that decision?

13 A Yes.

14 Q Who would that be?

15 A I would say John Smith.

16 Q Did Jack Daniels have any input as
17 to that decision?

18 A I am not sure.

19
20 (Deposition Exhibit Number 10
21 was marked for identification.)

22 BY MR. STRELKA:

23 Q You have now been handed a
24 document which has been labeled Exhibit 10. Do you

<p style="text-align: right;">Page 41</p> <p>1 recognize this document?</p> <p>2 A Yes, sir.</p> <p>3 Q What is this document?</p> <p>4 A It is the yearly performance</p> <p>5 evaluation done on a team member.</p> <p>6 Q And who was this done for?</p> <p>7 A Carl Pernal.</p> <p>8 Q And this was for the year of 2008?</p> <p>9 A Yes, sir.</p> <p>10 Q According to this performance</p> <p>11 management worksheet, how did Mr. Pernal fare as</p> <p>12 far as work product is concerned in 2008?</p> <p>13 A He met performance expectations.</p> <p>14 Q Does this document indicate any</p> <p>15 deficiency in Mr. Pernal's work product?</p> <p>16 A No, sir.</p> <p>17 Q Could you describe your personal</p> <p>18 observances of Mr. Pernal's work product in 2008?</p> <p>19 A He was not in our department at</p> <p>20 that time.</p> <p>21 Q So you didn't have an opportunity</p> <p>22 to observe his work product?</p> <p>23 A No, sir.</p> <p>24 Q Do you know why he was transferred</p>	<p style="text-align: right;">Page 43</p> <p>1 bottom?</p> <p>2 A As a witness, yes.</p> <p>3 Q Is this the form that was given to</p> <p>4 him that terminated Mr. Pernal's employment with</p> <p>5 Advance Auto?</p> <p>6 A I am not sure. I was not there</p> <p>7 when he was terminated. This would not be the</p> <p>8 termination.</p> <p>9 Q I'm sorry.</p> <p>10 MR. CHAKRAVORTY: The document</p> <p>11 speaks for itself.</p> <p>12 MR. STRELKA: Yes, sorry.</p> <p>13</p> <p>14 (Deposition Exhibit Number 12</p> <p>15 was marked for identification.)</p> <p>16</p> <p>17 BY MR. STRELKA:</p> <p>18 Q I now hand you a document that has</p> <p>19 been labeled Exhibit 12. Do you recognize that</p> <p>20 document?</p> <p>21 A Yes, sir.</p> <p>22 Q What is that document?</p> <p>23 A It is the performance evaluation</p> <p>24 done on all team members, and this was for Carl</p>
<p style="text-align: right;">Page 42</p> <p>1 to your section?</p> <p>2 A The guards -- it was outsourced,</p> <p>3 our security.</p> <p>4 Q So it is my understanding of what</p> <p>5 you just testified that Mr. Pernal was working as a</p> <p>6 security guard, and then that position was</p> <p>7 outsourced, and then he was moved into reclamation;</p> <p>8 is that right?</p> <p>9 A Yes. He wasn't really a security</p> <p>10 guard. He worked the gate with inbound trucks</p> <p>11 coming in.</p> <p>12</p> <p>13 (Deposition Exhibit Number 11</p> <p>14 was marked for identification.)</p> <p>15</p> <p>16 BY MR. STRELKA:</p> <p>17 Q The court reporter has now handed</p> <p>18 you a document which has been labeled Exhibit 11.</p> <p>19 Do you recognize this document?</p> <p>20 A Yes.</p> <p>21 Q What is this document?</p> <p>22 A This is the final corrective</p> <p>23 interview that was done on Carl Pernal.</p> <p>24 Q Is that your signature at the</p>	<p style="text-align: right;">Page 44</p> <p>1 Pernal.</p> <p>2 Q And for what year was this</p> <p>3 performed for Carl Pernal?</p> <p>4 A 2009.</p> <p>5 Q At this time where was Mr. Pernal</p> <p>6 working?</p> <p>7 A He was in reclamation.</p> <p>8 Q As a general warehouse worker?</p> <p>9 A Yes.</p> <p>10 Q According to this form, how did</p> <p>11 Mr. Pernal fare in 2009?</p> <p>12 A Satisfactory, successfully met</p> <p>13 expectations.</p> <p>14 Q So the information on this form,</p> <p>15 did this coincide with your personal observations</p> <p>16 of Mr. Pernal's work product in 2009?</p> <p>17 A Yes.</p> <p>18 Q Do you see where under the column</p> <p>19 success factors, the third one down on the front</p> <p>20 page, it says applied learning?</p> <p>21 A Uh-huh.</p> <p>22 Q And then to the right of that is</p> <p>23 an S for satisfactory, and to the right of that it</p> <p>24 says quick learner. Do you see that?</p>

<p style="text-align: right;">Page 45</p> <p>1 A Yes.</p> <p>2 Q Do you know who entered that</p> <p>3 information in there?</p> <p>4 A Yes.</p> <p>5 Q Who did that?</p> <p>6 A Greg Henderson.</p> <p>7 Q In your estimation, was Mr. Pernal</p> <p>8 a quick learner?</p> <p>9 A It depends on what area he was in.</p> <p>10 Q Could you go into detail about</p> <p>11 that?</p> <p>12 A I mean, if he was in callback,</p> <p>13 which is -- it would have been a little easier to</p> <p>14 sort out. Each area of reclamation is different.</p> <p>15 I mean, if we had him pulling freight off of a</p> <p>16 trailer, he would have been quick to learn that,</p> <p>17 so...</p> <p>18 Q Did Mr. Pernal work in the</p> <p>19 callback section in 2009?</p> <p>20 A I would say yes.</p> <p>21 Q Did he pull freight off of -- I</p> <p>22 think you said trucks in 2009?</p> <p>23 A Uh-huh.</p> <p>24 Q That is a yes?</p>	<p style="text-align: right;">Page 47</p> <p>1 Q Is that similar to Mr. Pernal?</p> <p>2 A Yes, sir.</p> <p>3 Q Was he placed on any sort of</p> <p>4 performance improvement plan?</p> <p>5 A Yes.</p> <p>6 Q Is that with the LMS achievement</p> <p>7 plan?</p> <p>8 A Yes.</p> <p>9 Q The achievement plan didn't work</p> <p>10 for Mr. Smith, did it?</p> <p>11 A No.</p> <p>12 Q Whose decision was it to terminate</p> <p>13 Mr. Smith?</p> <p>14 A It was a result of his failing to</p> <p>15 meet the standards. It would have been -- he went</p> <p>16 through the procedure, the process. So it would</p> <p>17 have went before my manager, Greg Henderson and</p> <p>18 John Smith.</p> <p>19 Q And did you have any input as to</p> <p>20 that decision?</p> <p>21 A Yes. I did observations, yes.</p> <p>22 Q Was it your advice to terminate</p> <p>23 Mr. Smith?</p> <p>24 MR. CHAKRAVORTY: Objection as to</p>
<p style="text-align: right;">Page 46</p> <p>1 A Yes.</p> <p>2 Q And there are no deficiencies of</p> <p>3 work product for Mr. Pernal indicated on this form,</p> <p>4 are there?</p> <p>5 A No.</p> <p>6 Q Do you know an employee named</p> <p>7 Homer Smith?</p> <p>8 A Yes.</p> <p>9 Q Who is Homer Smith?</p> <p>10 A He worked in the reclamation</p> <p>11 department.</p> <p>12 Q Is he still working there?</p> <p>13 A No, sir.</p> <p>14 Q Was he terminated?</p> <p>15 A Yes.</p> <p>16 Q Do you know why he was terminated?</p> <p>17 A Job performance.</p> <p>18 Q Can you give any specifics?</p> <p>19 A He did not meet to performance</p> <p>20 standards.</p> <p>21 Q Do you know any particular areas</p> <p>22 of job performance in which he was found deficient?</p> <p>23 A Operating the scanner in a core</p> <p>24 area.</p>	<p style="text-align: right;">Page 48</p> <p>1 form.</p> <p>2 THE WITNESS: I do not know what</p> <p>3 you mean.</p> <p>4</p> <p>5 BY MR. STRELKA:</p> <p>6 Q Did you advise Mr. Henderson that</p> <p>7 Mr. Smith should be terminated?</p> <p>8 A The documents is what provided the</p> <p>9 result.</p> <p>10 Q Did you ever verbally speak with</p> <p>11 Mr. Henderson regarding your recommendation for</p> <p>12 Mr. Smith's job status after he was put on the LMS</p> <p>13 achievement plan?</p> <p>14 A No.</p> <p>15 Q You never discussed whether you</p> <p>16 felt he should be terminated or not?</p> <p>17 A No. I do not recall that.</p> <p>18 Q Do you ever recall having a</p> <p>19 discussion with any of your supervisors regarding</p> <p>20 the termination of Carl Pernal?</p> <p>21 A No.</p> <p>22 Q What about Mr. Bandy?</p> <p>23 A No.</p> <p>24 Q It is your testimony then, like</p>

<p style="text-align: right;">Page 49</p> <p>1 you said, that the documents speak for themselves?</p> <p>2 A Yes.</p> <p>3 Q Was Mr. Jack Daniels involved in</p> <p>4 any way in the termination of Mr. Smith?</p> <p>5 A I am not sure. I do not recall.</p> <p>6 Q Could he have been?</p> <p>7 MR. CHAKRAVORTY: Object as to</p> <p>8 form.</p> <p>9</p> <p>10 BY MR. STRELKA:</p> <p>11 Q You still have to answer. Could</p> <p>12 he have been?</p> <p>13 A I guess.</p> <p>14 Q It is possible, but you don't</p> <p>15 know?</p> <p>16 A Yeah. I don't know.</p> <p>17 Q I do not want to try to put words</p> <p>18 in your mouth. Do you know how old Mr. Smith was?</p> <p>19 A No, I do not.</p> <p>20 Q Do you know if he is over the age</p> <p>21 of 40?</p> <p>22 A Yes.</p> <p>23 Q Do you know if Mr. Smith has been</p> <p>24 replaced at Advance Auto?</p>	<p style="text-align: right;">Page 51</p> <p>1 Q Do you know who replaced him?</p> <p>2 A No.</p> <p>3 MR. CHAKRAVORTY: Objection as to</p> <p>4 form.</p> <p>5</p> <p>6 BY MR. STRELKA:</p> <p>7 Q Do you know the age of any</p> <p>8 individual that has replaced Mr. Pernal?</p> <p>9 MR. CHAKRAVORTY: Object as to</p> <p>10 form.</p> <p>11 THE WITNESS: No.</p> <p>12</p> <p>13 BY MR. STRELKA:</p> <p>14 Q Do you know if the individual or</p> <p>15 individuals that have replaced Mr. Pernal were</p> <p>16 younger than Mr. Pernal?</p> <p>17 MR. CHAKRAVORTY: Objection as to</p> <p>18 form.</p> <p>19 THE WITNESS: Yes.</p> <p>20</p> <p>21 BY MR. STRELKA:</p> <p>22 Q But you don't know the age?</p> <p>23 A Right. I can say they are younger</p> <p>24 than me.</p>
<p style="text-align: right;">Page 50</p> <p>1 MR. CHAKRAVORTY: Objection as to</p> <p>2 form.</p> <p>3 THE WITNESS: We have filled the</p> <p>4 positions, yes.</p> <p>5</p> <p>6 BY MR. STRELKA:</p> <p>7 Q Do you know who filled his</p> <p>8 position?</p> <p>9 A No, I did not.</p> <p>10 Q Do you know the age of anyone who</p> <p>11 filled his position?</p> <p>12 A No, I do not.</p> <p>13 Q Same question, slightly different.</p> <p>14 Do you know if anyone who filled Mr.</p> <p>15 Smith's position was younger than Mr. Smith?</p> <p>16 MR. CHAKRAVORTY: Objection as to</p> <p>17 form.</p> <p>18 THE WITNESS: Yes.</p> <p>19</p> <p>20 BY MR. STRELKA:</p> <p>21 Q I don't believe I asked you that</p> <p>22 question with regard to Mr. Pernal. Do you know if</p> <p>23 Mr. Pernal has been replaced at Advance Auto?</p> <p>24 A Yes.</p>	<p style="text-align: right;">Page 52</p> <p>1 Q How old are you?</p> <p>2 A 62.</p> <p>3</p> <p>4 (Deposition Exhibit Number 13</p> <p>5 was marked for identification.)</p> <p>6</p> <p>7 BY MR. STRELKA:</p> <p>8 Q We have been talking about Homer</p> <p>9 Smith. Does he go also by the name Warren Smith?</p> <p>10 A Yes.</p> <p>11 Q Do you recognize the document that</p> <p>12 has just been handed to you as Exhibit 13?</p> <p>13 A Yes.</p> <p>14 Q What is that document?</p> <p>15 A It is the final corrective</p> <p>16 interview that was done on Warren.</p> <p>17 Q Just to make sure that the record</p> <p>18 is clear here, anytime that you talk about Warren</p> <p>19 you are referring to Homer Smith?</p> <p>20 A Yes.</p> <p>21 Q So Mr. Smith never had a -- other</p> <p>22 than being placed upon the LMS achievement plan and</p> <p>23 this team member action report, Mr. Smith never had</p> <p>24 a work performance review that showed a deficiency</p>

Page 53

1 in work product, did he?

2 MR. CHAKRAVORTY: Objection as to

3 form.

4 THE WITNESS: Not to my knowledge.

5

6 BY MR. STRELKA:

7 Q Let me rephrase that because of

8 the objection. Do you know if Mr. Smith ever

9 received a work performance evaluation that showed

10 a deficiency in work product?

11 MR. CHAKRAVORTY: Objection as to

12 form.

13 THE WITNESS: Not to my knowledge.

14

15 BY MR. STRELKA:

16 Q Can you reconcile why Mr. Smith

17 and Mr. Pernal were terminated for work

18 performance, yet they never received any work

19 performance evaluations showing any deficiency of

20 work product?

21 A Because we didn't always have

22 standards. Everyone has a requirement of what they

23 need to do, expectations. We have expectations to

24 meet.

Page 54

1 Q When you said standards earlier,

2 are you referring to specifically the scanning, or

3 are you referring to just standards in general?

4 A To the RF, the use of the RF.

5 Q The RF scanner?

6 A Yes.

7 Q So you are saying that at the time

8 that Mr. Smith's and Mr. Pernal's work performance

9 evaluations were performed, the RF scanner was not

10 utilized at that time?

11 A Right. Ask me that again.

12 Q The RF scanner, the standard as

13 you said, was that being utilized by Mr. Smith and

14 Mr. Pernal at the time of their work performance

15 evaluations?

16 A The yearly evaluations?

17 Q Yes.

18 A It would have depended on what

19 year that you were just talking about.

20 Q Well, let's talk about 2009. You

21 just saw on Exhibit 12 a 2009 evaluation of

22 Mr. Pernal. That was Exhibit 12. If you want to,

23 you can go in here and look at it. It is in the

24 stack.

Page 55

1 Was the RF scanner being utilized

2 by Mr. Pernal in 2009?

3 A I am not sure. I am not sure of

4 the date of when we got our standards -- our

5 expectations.

6 Q So you don't know if it was 2009

7 or 2008 at all?

8 A No. I don't recall the date.

9 Q Staying with Exhibit 12, that was

10 the 2009 performance management worksheet for Carl

11 Pernal. Did you have a hand in the creation of

12 this document?

13 MR. CHAKRAVORTY: Objection as to

14 form.

15 THE WITNESS: Yes.

16 MR. CHAKRAVORTY: Hold on a

17 second. What do you mean by creation?

18 Like actually do the document --

19 MR. STRELKA: I am asking her to

20 describe whatever that --

21 MR. CHAKRAVORTY: Ask her --

22 MR. STRELKA: Yeah.

23

24 BY MR. STRELKA:

Page 56

1 Q Please detail whatever input you

2 had into the creation of this document, whatever --

3 A Greg and I would sit down and

4 discuss each team member on how -- different areas

5 of the job that they had done.

6 Q Was that for every performance

7 management worksheet that was created for these

8 workers in the reclamation department?

9 A Yes.

10 Q And do you recall indicating in

11 2009 whether Mr. Pernal had any deficiencies on the

12 RF scanner?

13 A No, I do not.

14 Q Do you recall in 2008 advising

15 Mr. Henderson of any deficiencies that Mr. Pernal

16 would have with the RF scanner?

17 MR. CHAKRAVORTY: Objection as to

18 form.

19 THE WITNESS: I don't know that he

20 was there in 2008. I don't recall.

21

22 BY MR. STRELKA:

23 Q Do you recall bringing it to

24 anyone's attention in 2008 at Advance Auto of any

<p style="text-align: right;">Page 57</p> <p>1 deficiency in work product based upon the use of</p> <p>2 the RF scanner for Carl Pernal?</p> <p>3 A No.</p> <p>4 Q The same question, but for Warren</p> <p>5 Smith.</p> <p>6 A In?</p> <p>7 Q Do you recall discussing any</p> <p>8 workplace work performance deficiencies regarding</p> <p>9 the RF scanner from Homer Warren Smith in 2008?</p> <p>10 A No.</p> <p>11 Q What about 2009 for Mr. Smith?</p> <p>12 A I don't recall.</p> <p>13 Q Do you remember if either of them</p> <p>14 had any deficiencies in 2008 or 2009 with the RF</p> <p>15 scanner?</p> <p>16 A I do not recall.</p> <p>17 Q Do you recall if Mr. Bandy had any</p> <p>18 deficiencies with the RF scanner?</p> <p>19 A No.</p> <p>20 Q Have you ever indicated to one of</p> <p>21 your supervisors in the course of the drafting of a</p> <p>22 performance management worksheet any employee</p> <p>23 having deficiencies with the RF scanner?</p> <p>24 A No.</p>	<p style="text-align: right;">Page 59</p> <p>1 was marked for identification.)</p> <p>2</p> <p>3 BY MR. STRELKA:</p> <p>4 Q You have just been handed a</p> <p>5 multi-page document that begins with a BATES label</p> <p>6 of 816 and concludes at BATES label 825. It has</p> <p>7 been labeled Exhibit 14. Do you recognize this</p> <p>8 document?</p> <p>9 A Yes.</p> <p>10 Q What is this document?</p> <p>11 A This was the review form that was</p> <p>12 used for a material handler, evaluation forms.</p> <p>13 Q Who was this particular form used</p> <p>14 for?</p> <p>15 A Warren Smith.</p> <p>16 Q Was this for the year of 2008?</p> <p>17 A I would have to look at the date.</p> <p>18 This would be 2007.</p> <p>19 Q 2007.</p> <p>20 MR. CHAKRAVORTY: Hold on one</p> <p>21 second. I think there are two documents.</p> <p>22 One is for 2007 and one is for 2008, I</p> <p>23 think.</p> <p>24 THE WITNESS: Yeah, they are.</p>
<p style="text-align: right;">Page 58</p> <p>1 Q You have never mentioned that to</p> <p>2 any supervisor?</p> <p>3 A No.</p> <p>4 Q Why is that?</p> <p>5 A The RF scanner is very user</p> <p>6 friendly.</p> <p>7 Q Okay. But certain employees had</p> <p>8 difficulty with it; isn't that right?</p> <p>9 A Well, a lot of times seeing the</p> <p>10 screen if you didn't wear your glasses, that seemed</p> <p>11 to be the biggest issue, but they are very user</p> <p>12 friendly.</p> <p>13 Q The RF scanner is used to track,</p> <p>14 as we talked about earlier, the time that a certain</p> <p>15 employee may spend on a given objective at work; is</p> <p>16 that right?</p> <p>17 A That is how we process our</p> <p>18 product, yes, keep track of our inventory.</p> <p>19 Q So you have never discussed a</p> <p>20 deficiency regarding that issue with any supervisor</p> <p>21 for any employee at Advance Auto?</p> <p>22 A I do not recall that, no.</p> <p>23</p> <p>24 (Deposition Exhibit Number 14</p>	<p style="text-align: right;">Page 60</p> <p>1 MR. CHAKRAVORTY: The first three</p> <p>2 deal with 2007.</p> <p>3 MR. STRELKA: You are correct. I</p> <p>4 apologize. I am going to make note on</p> <p>5 the record. But pending no objection</p> <p>6 from you, I would like to kind of take</p> <p>7 apart this exhibit.</p> <p>8</p> <p>9 BY MR. STRELKA:</p> <p>10 Q If I may see your exhibit, ma'am.</p> <p>11 Here you go. Now, I reflect to you right now that</p> <p>12 I have just handed you the first three pages of</p> <p>13 that document that I originally handed to you,</p> <p>14 which has been labeled Exhibit 14 and that this</p> <p>15 document has been BATES labeled 816 through 818.</p> <p>16 A Yes.</p> <p>17 Q And I'm sorry to repeat ourselves.</p> <p>18 Can you identify this document?</p> <p>19 A Could you repeat that?</p> <p>20 Q Can you identify this document?</p> <p>21 A Yes. It is a team member</p> <p>22 evaluation form.</p> <p>23 Q For Mr. Smith?</p> <p>24 A Yes, sir.</p>

<p style="text-align: right;">Page 61</p> <p>1 Q For what year would this form have</p> <p>2 evaluated him?</p> <p>3 A 2007.</p> <p>4 Q Who is Greg Huddleston?</p> <p>5 A Greg Huddleston?</p> <p>6 Q Do you know a Greg Huddleston?</p> <p>7 A Yes. He works in the reclamation</p> <p>8 department.</p> <p>9 Q Does he still work there?</p> <p>10 A Yes.</p> <p>11 Q Do you know a Maggie Schneider?</p> <p>12 A Yes.</p> <p>13 Q What does she do?</p> <p>14 A She's a general warehouse worker</p> <p>15 in the reclamation department.</p> <p>16 Q Are you aware of any hostile</p> <p>17 exchange between those two workers?</p> <p>18 A Hostile? No.</p> <p>19 Q Are you aware of any sort of</p> <p>20 altercation between those two workers?</p> <p>21 A Just one telling the other one,</p> <p>22 Don't tell me what to do. No loud outburst that I</p> <p>23 heard.</p> <p>24 Q Do you recall when the incident</p>	<p style="text-align: right;">Page 63</p> <p>1 answering my question. I would ask that you allow</p> <p>2 me to finish the question before you answer, okay?</p> <p>3 A Yes.</p> <p>4 Q You are doing wonderful. I</p> <p>5 appreciate it.</p> <p>6 From the document, it seems that</p> <p>7 the only deficiency in 2008 for Mr. Smith was an</p> <p>8 attendance matter. Do you see that?</p> <p>9 A Yes.</p> <p>10 Q Do you recall any other</p> <p>11 deficiencies in 2008 for Mr. Smith?</p> <p>12 A Any other?</p> <p>13 Q Do you recall any other work</p> <p>14 performance deficiencies that Mr. Smith may have</p> <p>15 had in 2008 other than attendance?</p> <p>16 A No.</p> <p>17 Q As in the other we discussed</p> <p>18 earlier, you had discussed your observances of</p> <p>19 Mr. Smith's work performance in 2008 to your</p> <p>20 supervisor, who then created this; is that right?</p> <p>21 A Yes.</p> <p>22</p> <p>23 (Deposition Exhibit Number 16</p> <p>24 was marked for identification.)</p>
<p style="text-align: right;">Page 62</p> <p>1 you are describing occurred?</p> <p>2 A No. I mean, not the date.</p> <p>3 Q Do you recall any incident</p> <p>4 relative to what I was just talking about, an</p> <p>5 exchange between the two, occurring in 2010?</p> <p>6 A Only what I was told.</p> <p>7 Q Let me go ahead and get in the</p> <p>8 other half of this document.</p> <p>9</p> <p>10 (Deposition Exhibit Number 15</p> <p>11 was marked for identification.)</p> <p>12</p> <p>13 BY MR. STRELKA:</p> <p>14 Q Do you see this document? This</p> <p>15 was previously erroneously part of Exhibit 14. Now</p> <p>16 it is its own exhibit, Exhibit 15. Do you</p> <p>17 recognize this document?</p> <p>18 A Yes, sir.</p> <p>19 Q What is this document?</p> <p>20 A It is the annual performance sheet</p> <p>21 for Warren Smith.</p> <p>22 Q For what year was this sheet --</p> <p>23 A 2008.</p> <p>24 Q Thank you. I appreciate you</p>	<p style="text-align: right;">Page 64</p> <p>1</p> <p>2 BY MR. STRELKA:</p> <p>3 Q I am going to be handing you a</p> <p>4 very large document now, and we are going to be</p> <p>5 kind of going through it briefly.</p> <p>6 Now, you have just been handed a</p> <p>7 number of documents that are BATES labeled 1370</p> <p>8 through 1391 as Exhibit 16, and there is a whole</p> <p>9 bunch of stuff to look at in here.</p> <p>10 I am going to go ahead and</p> <p>11 represent to you that these documents collectively</p> <p>12 represent incidences of hostility or workplace</p> <p>13 violence or workplace aggression, okay? That is</p> <p>14 the theme we are going for, and that is why they</p> <p>15 are all bundled together, okay?</p> <p>16 I would like you to take a look at</p> <p>17 the first page, what has been BATES labeled 1370.</p> <p>18 Do you recognize this document?</p> <p>19 A I have never seen this one before.</p> <p>20 Q Is this a team member action</p> <p>21 report?</p> <p>22 A Yes.</p> <p>23 Q If I told you that this was a team</p> <p>24 member action report for John King created as a</p>

Page 65

1 result of the altercation between Mr. Bandy and
 2 Mr. King, would you doubt that?
 3 A No.
 4 Q Let's look at the next one. Do
 5 you see the name at the top of that?
 6 A Yes.
 7 Q Who is Rodney Heptinstall?
 8 A I do not know him.
 9 Q Do you know if he is an employee
 10 at Advance Auto at all or was an employee at
 11 Advance Auto?
 12 A He was, yes.
 13 Q Do you recall an incident in which
 14 he threatened to punch someone in the face?
 15 A No.
 16 Q Do you recall any incident
 17 involving Mr. Heptinstall regarding any workplace
 18 violence or hostility?
 19 A No.
 20 Q I would like you to look at what
 21 has been BATES labeled as 1376. Do you see that?
 22 A Yes.
 23 Q What is this document?
 24 A It is a statement concerning a

Page 66

1 team member.
 2 Q Is it an e-mail?
 3 A Yes.
 4 Q Who is this from?
 5 A Jack Daniels.
 6 Q This was sent to -- do you see the
 7 name, subject, Ricky Weeks?
 8 A Yes.
 9 Q Who is Ricky Weeks?
 10 A I do not know.
 11 Q Do you know if Ricky Weeks worked
 12 for Advance Auto?
 13 A At one time.
 14 Q Do you know if Ricky Weeks was
 15 ever involved in any sort of physical altercation
 16 with anyone at Advance Auto?
 17 A I do not know.
 18 Q You have never heard of Mr. Weeks
 19 pushing an employee or making threats?
 20 A No.
 21 Q I would like to have you look at
 22 what has been BATES labeled Exhibit 1378. I'm
 23 sorry, my dyslexia kicked in. It is not 1378 I
 24 want you to look at. It is 1387.

Page 67

1 I am now representing to you that
 2 in front of you is a document labeled team member
 3 action report. Have you ever seen this document
 4 before?
 5 A Not this particular document.
 6 Q But this is the same form that all
 7 the team member action reports are generated from;
 8 is that right?
 9 A Yes.
 10 Q Do you know of an employee named
 11 Ferron Wade?
 12 A I knew of him.
 13 Q What did you know of him?
 14 A I knew that he worked on third
 15 shift and that his mother worked there.
 16 Q Do you know if Mr. Wade was
 17 involved in any physical altercation or hostility
 18 at the workplace?
 19 A I had heard that.
 20 Q What had you heard?
 21 A That he had thrown something and
 22 broke another team member's -- chipped another team
 23 member's tooth.
 24 Q Do you know what he threw?

Page 68

1 A No, I do not.
 2 Q Were you involved in any way in
 3 any discipline of Mr. Wade?
 4 A No.
 5 Q I would like you to flip the page,
 6 and I will represent to you you are now looking at
 7 what has been BATES labeled 1388. Do you see the
 8 name at the top of that?
 9 A Yes, sir.
 10 Q Do you know an Allen Ragland?
 11 A I do.
 12 Q How do you know Allen Ragland?
 13 A He worked at Advance Auto Parts.
 14 Q Do you know of any physical
 15 altercation or hostility that he may have exhibited
 16 at the workplace?
 17 A Only what I heard.
 18 Q What did you hear?
 19 A That he made a threat to come and
 20 kill some of the people here at Advance.
 21 Q Who did you hear that from?
 22 A Another -- I don't recall the name
 23 of the person. I really don't.
 24 Q Where it says manager's signature,

Page 69

1 do you know whose signature that is?

2 A No, I do not.

3 Q But below that you see witness

4 signature?

5 A Yes.

6 Q Who is that signature?

7 A Jack Daniels.

8 Q Do you recall any other incidents

9 of workplace violence at Advance Auto other than

10 the ones that we have just discussed?

11 A I do recall one involving two team

12 members years ago. They got into an altercation of

13 threatening to hit each other, and they were both

14 terminated. I do not remember the year.

15 Q Do you remember the name?

16 A Steve Gravely and Richard

17 Christian.

18 Q When did you say you began working

19 for Advance Auto?

20 A 1990.

21 Q Do you recall if this incident

22 occurred after the year 2000?

23 A I do not recall.

24 Q Do you know where those

Page 70

1 individuals worked?

2 A In the receiving department.

3 MR. STRELKA: I am getting very

4 close to concluding. Let me just kind of

5 review this one document here.

6 MR. CHAKRAVORTY: Sure.

7

8 BY MR. STRELKA:

9 Q Do you know what a rank order

10 attendance report is?

11 A A rank?

12 Q It may sometimes be referred to as

13 a ROAR?

14 A ROAR report?

15 Q ROAR report?

16 A Yes.

17 Q Okay. What is a ROAR report?

18 A It is the report that comes out at

19 the end of each quarter, period, every three

20 months.

21 Q What information does that report

22 contain?

23 A That tells you if you have a team

24 member that -- the hours they were expected to work

Page 71

1 and hours they missed and if they failed to meet

2 the hours estimated.

3 Q So as the name would suggest, this

4 report supplies information regarding the

5 attendance of an employee of Advance Auto?

6 A Yes, that did not have a benefit

7 to cover their absence.

8

9 (Deposition Exhibit Number 17

10 was marked for identification.)

11

12 BY MR. STRELKA:

13 Q You have just been handed a

14 document that has been labeled Exhibit 17. Do you

15 recognize this document?

16 A Yes.

17 Q What is this document?

18 A It is how our ROAR report works,

19 our attendance policy works.

20 Q It says, Attendance policy revised

21 April 25, 2010. Is it your understanding that this

22 was the attendance policy addendum that was in

23 place at that time?

24 A Yes.

Page 72

1 Q On the second page, you will

2 notice a signature. Do you recognize that

3 signature?

4 A Yes.

5 Q Is that Roger Bandy's signature?

6 A Yes, sir.

7 Q Do you know, did Mr. Bandy ever

8 have a problem with attendance?

9 A No.

10 Q Did Mr. Bandy ever have a problem,

11 from your observations, regarding any area of work

12 performance?

13 A No.

14 Q So he was a good worker?

15 A He was.

16 Q Did you ever have any

17 conversations with Mr. Henderson about who would

18 and who wouldn't be terminated from the reclamation

19 department?

20 MR. CHAKRAVORTY: Objection as to

21 form.

22 THE WITNESS: In regard to?

23

24 BY MR. STRELKA:

<p style="text-align: right;">Page 73</p> <p>1 Q I will strike that. Did you ever</p> <p>2 have -- how do I say this? Did Mr. Henderson ever</p> <p>3 ask you for your input regarding the termination of</p> <p>4 an employee at Advance Auto?</p> <p>5 A My input really doesn't determine</p> <p>6 whether a team member gets terminated. It is --</p> <p>7 you know, the policies are in place, so -- you</p> <p>8 know.</p> <p>9 Q I understand that, but did he ever</p> <p>10 ask you?</p> <p>11 A I don't recall.</p> <p>12 Q Did you ever hear Mr. Henderson</p> <p>13 comment upon wishing to terminate older employees</p> <p>14 at Advance Auto?</p> <p>15 A No. I would find that very</p> <p>16 offensive.</p> <p>17</p> <p>18 (Deposition Exhibit Number 18</p> <p>19 was marked for identification.)</p> <p>20</p> <p>21</p> <p>22 BY MR. STRELKA:</p> <p>23 Q You have been handed a document</p> <p>24 marked Exhibit 18. Do you recognize this document?</p>	<p style="text-align: right;">Page 75</p> <p>1 Q Is it your understanding that this</p> <p>2 was the tobacco policy in place at Advance Auto in</p> <p>3 2010?</p> <p>4 A Yes.</p> <p>5</p> <p>6 (Deposition Exhibit Number 19</p> <p>7 was marked for identification.)</p> <p>8</p> <p>9 BY MR. STRELKA:</p> <p>10 Q Have you seen this document?</p> <p>11 A Yes, sir.</p> <p>12 Q Do you know what this document is?</p> <p>13 A Yes.</p> <p>14 Q What is this document?</p> <p>15 A It is our United Way form that we</p> <p>16 give to team members to fill out if they want to</p> <p>17 donate to United Way.</p> <p>18 MR. STRELKA: Ms. Myers, I</p> <p>19 appreciate all of your earnest answers</p> <p>20 here today, and we should be very close</p> <p>21 to wrapping up. If you would just allow</p> <p>22 me to look -- give me a minute or two to</p> <p>23 look through my notes and see if there is</p> <p>24 anything else I wish to ask you.</p>
<p style="text-align: right;">Page 74</p> <p>1 A Yes.</p> <p>2 Q What is this document?</p> <p>3 A It is our tobacco policy.</p> <p>4 MR. CHAKRAVORTY: Hold on a second</p> <p>5 here. There are two pages to it.</p> <p>6 MR. STRELKA: I don't know why</p> <p>7 that is on here.</p> <p>8 MR. CHAKRAVORTY: Do you want to</p> <p>9 amend it like before?</p> <p>10 MR. STRELKA: I do wish to amend</p> <p>11 it. Let's split this up.</p> <p>12</p> <p>13 BY MR. STRELKA:</p> <p>14 Q I apologize again for this. I am</p> <p>15 now handing you a document which is a one-page</p> <p>16 document that is labeled Exhibit 18, BATES labeled</p> <p>17 80. Do you recognize this single-page document?</p> <p>18 A Yes. It is our tobacco policy.</p> <p>19 Q And whose signature is at the</p> <p>20 bottom of the document?</p> <p>21 A Mr. Bandy.</p> <p>22 Q It has been dated April 19, 2010.</p> <p>23 Do you see that?</p> <p>24 A Yes, sir.</p>	<p style="text-align: right;">Page 76</p> <p>1 THE WITNESS: Yes, sir.</p> <p>2</p> <p>3 (Discussion off the record.)</p> <p>4</p> <p>5 BY MR. STRELKA:</p> <p>6 Q We are now back on the record.</p> <p>7 Ms. Myers, you understand you are still under oath?</p> <p>8 A Yes.</p> <p>9 Q Are you familiar with how an</p> <p>10 employee is trained to use the RF scanner in the</p> <p>11 reclamation department?</p> <p>12 A Yes.</p> <p>13 Q How is an employee trained to use</p> <p>14 the RF scanner in the reclamation department?</p> <p>15 A We have a trainer, a team member,</p> <p>16 that has been designated as our trainer who works</p> <p>17 with the team member.</p> <p>18 Q Do you know how long it takes to</p> <p>19 complete that training?</p> <p>20 A We allow about ten days.</p> <p>21 Q And as part of his job duties when</p> <p>22 he was in the reclamation department, Mr. Smith had</p> <p>23 to use that RF scanner?</p> <p>24 A Yes.</p>

Page 77

1 Q Do you know if Mr. Smith ever
2 suffered from any health condition while at Advance
3 Auto?
4 A No.
5 Q I am going to represent to you
6 that he signed an affidavit in this case in which
7 he said he suffers from arthritis.
8 Did you ever know Mr. Smith to
9 suffer from arthritis?
10 A No.
11 Q Did he ever complain to you about
12 that?
13 A No.
14 Q Did he ever complain to you about
15 the amount of training he received on the RF
16 scanner?
17 A No.
18 Q Do you know if Mr. Smith received
19 the same amount of training on the RF scanner as
20 other employees?
21 A He did.
22 Q So he didn't receive any less
23 training than anyone else?
24 A No.

Page 78

1 Q Do you know if Mr. Smith ever
2 requested to be transferred out of the reclamation
3 department?
4 A Not to my knowledge.
5 Q Do you know if he -- well, you say
6 not to your knowledge. That is sufficient.
7 Do you know if Mr. Pernal ever
8 requested to be transferred out of the reclamation
9 department?
10 A Not to my knowledge.
11 Q What about Mr. Bandy?
12 A No, not to my knowledge.
13 Q Can you describe to me where the
14 callback department is? Is that the reclamation
15 department?
16 A Yes.
17 Q What type of work is done in the
18 callback department?
19 A That is product coming back from
20 the stores that is going to be returned to the
21 vendors. It is brand new product.
22 Q Do people in the callback
23 department utilize an RF scanner?
24 A Yes.

Page 79

1 Q Is there any area of the
2 reclamation department that would require more use
3 of the RF scanner as a necessary component of the
4 job than other areas?
5 A Yes.
6 Q What would that be?
7 A Well, we have multiple areas, but
8 no one -- you know, we have our overstocks, our
9 defects, and our cores that all require a lot of --
10 require RF work.
11 Q So all those departments that you
12 just named require frequent use of the RF scanner?
13 A The areas, yes. They are not
14 departments.
15 Q I apologize.
16 A That is okay.
17 Q In the course of this lawsuit,
18 Mr. Pernal and Mr. Smith, I represent to you, have
19 submitted affidavits in this case claiming that
20 they were transferred to the defect section and
21 that they were working in the defect section and
22 only in the defect section.
23 Is that accurate or is that
24 inaccurate according to your personal observation?

Page 80

1 A Who was this?
2 Q Mr. Pernal and Mr. Smith.
3 A That is not accurate.
4 Q You are saying that they never
5 worked just in the defect section?
6 A No, they did not.
7 Q Earlier you had testified
8 regarding Mr. Pernal's transfer from operating the
9 gate to the reclamation department, correct?
10 A Yes.
11 Q Do you know if he received any
12 change in pay pursuant to that transfer?
13 A I do not know.
14 Q Do you know if there was any
15 change in his benefits pursuant to that transfer?
16 A I do not know.
17 Q Earlier I said that Mr. Pernal was
18 working as a security guard, and you told me that
19 that maybe wasn't accurate; is that right?
20 A That's right.
21 Q Do you know what Mr. Pernal's
22 title was at that gate?
23 A I do not know.
24 Q Would a transfer from where he was

<p style="text-align: right;">Page 81</p> <p>1 working to the reclamation department be considered</p> <p>2 a demotion?</p> <p>3 A I am not sure. I do not know.</p> <p>4 Q It is possible that it could have</p> <p>5 been?</p> <p>6 MR. CHAKRAVORTY: Objection as to</p> <p>7 form.</p> <p>8 THE WITNESS: I guess.</p> <p>9</p> <p>10 BY MR. STRELKA:</p> <p>11 Q Mr. Pernal's previous job at the</p> <p>12 gate, did that job require any lifting?</p> <p>13 A Not to my knowledge.</p> <p>14 Q I am going to represent to you</p> <p>15 that in an affidavit submitted in the course of</p> <p>16 this lawsuit, Mr. Pernal indicated that, according</p> <p>17 to him, he observed older individuals such as</p> <p>18 himself, Mr. Smith, and Mr. Bandy, to be given more</p> <p>19 difficult jobs in the reclamation department while</p> <p>20 younger workers were given easier jobs, less</p> <p>21 physically demanding. Would you agree with that</p> <p>22 observation?</p> <p>23 A No, I do not.</p> <p>24 Q Do you disagree with it in its</p>	<p style="text-align: right;">Page 83</p> <p>1 they were areas, correct?</p> <p>2 A Yes.</p> <p>3 Q So the department is the</p> <p>4 reclamation department, and then you have certain</p> <p>5 areas in that department?</p> <p>6 A Yes.</p> <p>7 Q And I think you said cores,</p> <p>8 overstock, defects, breaking down trucks. There</p> <p>9 are various areas.</p> <p>10 A Yes.</p> <p>11 Q And I just want to make sure I</p> <p>12 understand. Your testimony is every general</p> <p>13 warehouse worker is cross-trained so they go to</p> <p>14 different areas, correct?</p> <p>15 A Yes.</p> <p>16 Q When they go from one area to</p> <p>17 another, let's say from cores to defect or defect</p> <p>18 to callback, is there a change in rate of pay?</p> <p>19 A No.</p> <p>20 Q Have you heard any employee</p> <p>21 complain about being sent to defect so Advance</p> <p>22 could fire them?</p> <p>23 A No.</p> <p>24 Q Have you heard any employee</p>
<p style="text-align: right;">Page 82</p> <p>1 entirety?</p> <p>2 A Yes.</p> <p>3 Q In the course of your employment</p> <p>4 with Advance Auto, are you aware of anyone being</p> <p>5 transferred to the reclamation department in order</p> <p>6 that they may be terminated?</p> <p>7 A No.</p> <p>8 MR. CHAKRAVORTY: Objection as to</p> <p>9 form.</p> <p>10 MR. STRELKA: I have no further</p> <p>11 questions at this time. Thank you.</p> <p>12 MR. CHAKRAVORTY: I have some.</p> <p>13</p> <p>14 EXAMINATION</p> <p>15</p> <p>16 BY MR. CHAKRAVORTY:</p> <p>17 Q Thanks for being here. Against my</p> <p>18 better judgment and against my mom's wishes, could</p> <p>19 you please tell me your birth date.</p> <p>20 A July 23, 1950.</p> <p>21 Q I want to ask you some of the</p> <p>22 questions that Mr. Strelka asked you and try to get</p> <p>23 some more background. Let's talk about these</p> <p>24 departments that Mr. Strelka talks about. You said</p>	<p style="text-align: right;">Page 84</p> <p>1 complain to you or believe that the defect section</p> <p>2 is less desirable than any other section or area of</p> <p>3 the reclamation department?</p> <p>4 A No.</p> <p>5 Q You testified about Cassandra</p> <p>6 Hall. Her nickname is Sandy, correct?</p> <p>7 A Yes.</p> <p>8 Q She is a general warehouse worker?</p> <p>9 A Yes, she is.</p> <p>10 Q She came to you on October 13,</p> <p>11 2010, and she reported an incident to you, correct?</p> <p>12 A Yes.</p> <p>13 Q Exactly what did she report?</p> <p>14 A That she had heard Mr. Bandy and</p> <p>15 Mr. King arguing. She heard the loudness. She</p> <p>16 looked up. She seen Mr. Bandy shaking his fist.</p> <p>17 Q I think you also said that she</p> <p>18 seemed scared or nervous?</p> <p>19 A She was very nervous. Her hands</p> <p>20 were shaking. It really shook her up.</p> <p>21 Q And so you said right after that</p> <p>22 you went to Greg Henderson?</p> <p>23 A Yes, I did.</p> <p>24 Q Did you have any other role in the</p>

<p style="text-align: right;">Page 85</p> <p>1 decision to terminate Mr. Bandy or Mr. King?</p> <p>2 A None at all.</p> <p>3 Q Do you know about Advance's</p> <p>4 workplace violence policy?</p> <p>5 A Yes.</p> <p>6 Q To your knowledge, what is that</p> <p>7 policy?</p> <p>8 A Zero tolerance for threatening and</p> <p>9 intimidation.</p> <p>10 Q To your knowledge, does there have</p> <p>11 to be actual physical contact for the policy to be</p> <p>12 effectuated?</p> <p>13 A No.</p> <p>14 Q So if the threat is made, that is</p> <p>15 still a violation of the policy to your</p> <p>16 understanding?</p> <p>17 A Yes.</p> <p>18 Q Is that what you tell your</p> <p>19 employees?</p> <p>20 A Yes, it is.</p> <p>21 Q How would an employee know about</p> <p>22 the workplace violence policy?</p> <p>23 A It is covered, and they also have</p> <p>24 signed a paper.</p>	<p style="text-align: right;">Page 87</p> <p>1 relevancy. Go ahead and answer.</p> <p>2 THE WITNESS: My understanding is</p> <p>3 that we need to feel safe and that we are</p> <p>4 not going to -- we don't go around</p> <p>5 threatening and intimidating people.</p> <p>6</p> <p>7</p> <p>8 BY MR. CHAKRAVORTY:</p> <p>9 Q Would it be correct to say that if</p> <p>10 you don't take action, someone could come back</p> <p>11 after the fact and effectuate real violence?</p> <p>12 MR. STRELKA: Object to</p> <p>13 speculation.</p> <p>14 THE WITNESS: I do.</p> <p>15</p> <p>16 BY MR. CHAKRAVORTY:</p> <p>17 Q You are aware of what happened,</p> <p>18 for example, a week and a half ago in Colorado?</p> <p>19 A Yes.</p> <p>20 Q You are aware of other incidents</p> <p>21 -- not necessarily Colorado was workplace violence,</p> <p>22 but you have seen the news where people have come</p> <p>23 back to the workplace and effectuated violence,</p> <p>24 hurting people, killing people?</p>
<p style="text-align: right;">Page 86</p> <p>1 Q Is it in the handbook?</p> <p>2 A Yes.</p> <p>3 Q Do you know if Mr. Bandy received</p> <p>4 a copy of the handbook?</p> <p>5 A Yes.</p> <p>6 Q What is your understanding of zero</p> <p>7 tolerance?</p> <p>8 A That if there is an incident</p> <p>9 involving the team member or a team member and</p> <p>10 management or two people, that someone is</p> <p>11 threatened or they are afraid, feel like they are</p> <p>12 unsafe, that that is not allowed.</p> <p>13 Advance assures us that we are</p> <p>14 going to come into a safe and not a hostile</p> <p>15 environment.</p> <p>16 Q Has Advance had a problem in the</p> <p>17 past with a workplace shooting?</p> <p>18 A They did have one.</p> <p>19 Q From your own personal</p> <p>20 perspective, do you understand why Advance has a</p> <p>21 zero tolerance policy on workplace violence?</p> <p>22 A I do.</p> <p>23 Q What is your understanding?</p> <p>24 MR. STRELKA: Objection to</p>	<p style="text-align: right;">Page 88</p> <p>1 MR. STRELKA: Objection.</p> <p>2 THE WITNESS: Yes.</p> <p>3</p> <p>4 BY MR. CHAKRAVORTY:</p> <p>5 Q That is what, to your knowledge,</p> <p>6 the workplace violence policy protects?</p> <p>7 A Yes.</p> <p>8 Q To your knowledge, does it matter</p> <p>9 if an employee is a great employee for 40 years if</p> <p>10 they violate that policy? Is they are in violation</p> <p>11 of the workplace violence policy, is it your</p> <p>12 understanding it doesn't matter how many good years</p> <p>13 of service you have had, that you are going to get</p> <p>14 terminated?</p> <p>15 A Yes.</p> <p>16 Q Because of zero tolerance?</p> <p>17 A Yes, sir. That is my</p> <p>18 understanding.</p> <p>19 Q Has anyone in management higher</p> <p>20 than you told you anything different or suggested</p> <p>21 anything different?</p> <p>22 A No.</p> <p>23 Q Do you know of anyone who has made</p> <p>24 a threat of violence or actual violence who hasn't</p>

Page 89

1 been terminated by Advance?
 2 A No, I do not.
 3 Q You talked about the situation or
 4 Mr. Strelka asked about the situation of
 5 Mr. Huddleston and Maggie Schneider, I believe?
 6 A Yes.
 7 Q Was it your understanding from
 8 what you know that that was in violation of the
 9 workplace violence policy?
 10 A No.
 11 Q Why?
 12 A From what I was told, one was just
 13 telling the other one, Don't tell me what to do.
 14 It was not no threat. You are not my boss.
 15 Q Did any employee come to you like
 16 Cassandra Hall came to you and said, I was scared,
 17 by what they witnessed between Maggie Schneider and
 18 Mr. Huddleston?
 19 A No one.
 20 Q Do you know if any employee came
 21 to anyone else in management about what they may
 22 have observed between Maggie Schneider and
 23 Mr. Huddleston?
 24 A No, I do not.

Page 90

1 Q Mr. Strelka asked you the question
 2 have you ever heard Greg Henderson make any
 3 comments about age or his disdain for older people,
 4 and I think your answer was no; is that correct?
 5 A That's correct.
 6 Q Have you heard any other manager
 7 at Advance make such a statement?
 8 A No, I have not.
 9 Q You also stated that you found
 10 that offensive if that statement had been made?
 11 A If it had been made, I would have.
 12 Q Why?
 13 A Because I would fall in that
 14 category, and I would take it personal.
 15 Q Assume you heard that statement.
 16 What would you do?
 17 A I would go to Jack Daniels, the
 18 operation manager.
 19 Q Why would you do that?
 20 A Because I would be offended, and
 21 it should not be made. We have -- we are equal
 22 opportunity.
 23 Q By the way, just going back, from
 24 the time that we took the break, we were off

Page 91

1 record, have I spoken to you about any of these
 2 questions?
 3 A No.
 4 Q In fact, I haven't even talked to
 5 you since I started asking you questions, correct?
 6 A Correct.
 7 Q Let's talk about Mr. Pernal. I
 8 think you said Mr. Pernal, before he was in the
 9 reclamation department, worked in the gate.
 10 A Yes.
 11 Q And I think you also said in
 12 response to a question, which I objected to, that
 13 him moving from the gate to the reclamation
 14 department could have been a demotion?
 15 A It could have been. I am not
 16 sure.
 17 Q You don't know?
 18 A I don't know.
 19 Q Is it your understanding that the
 20 gate, that area, was initially staffed by employees
 21 who were employed by Advance?
 22 A Yes.
 23 Q Is it your understanding that at
 24 some point Advance decided that they were no longer

Page 92

1 going to employ those people, that it was going to
 2 be outsourced to a third party?
 3 A Yes.
 4 Q So once the outsourcing occurred,
 5 is it your understanding that Mr. Pernal and others
 6 that were working in security or at the gate would
 7 have had to work for this other outside entity if
 8 they were to have hired them?
 9 A Yes.
 10 Q But is it your understanding that
 11 Mr. Pernal chose an offer to come and still be an
 12 employee at Advance?
 13 A Yes.
 14 Q Do you know anything about whether
 15 he chose to come into the reclamation department at
 16 all?
 17 A I do not know.
 18 Q Do you know if seniority played
 19 any role in his coming to the reclamation
 20 department?
 21 A I do not know.
 22 Q Do you know if, for example, he
 23 was the most senior person, and because he was the
 24 most senior, he got the first opportunity of where

<p style="text-align: right;">Page 93</p> <p>1 he wanted to come into Advance? Would you know if</p> <p>2 that's true or not?</p> <p>3 A I do not know.</p> <p>4 Q Would you know if, in fact, what I</p> <p>5 said was true, that he was the most senior, that he</p> <p>6 decided where he wanted to go, and he decided to go</p> <p>7 to the reclamation department? Do you know if that</p> <p>8 is true or not?</p> <p>9 A I do not know.</p> <p>10 Q And you do not know, when</p> <p>11 Mr. Pernal was working at the gate and that job was</p> <p>12 going to be lost because it was going to be</p> <p>13 outsourced, whether the new vendor, the new company</p> <p>14 that was going to provide the security, what their</p> <p>15 pay was going to be or what their benefits were</p> <p>16 going to be?</p> <p>17 A I do not know.</p> <p>18 Q Mr. Strelka put in a series of</p> <p>19 documents that were performance evaluations, some</p> <p>20 for Mr. Pernal, a couple for Mr. Bandy, a couple</p> <p>21 for Mr. Smith.</p> <p>22 For example, Exhibit 10 here. Let</p> <p>23 me pull these out real quick. Ms. Myers, if you</p> <p>24 would -- and you can use these. They are the same.</p>	<p style="text-align: right;">Page 95</p> <p>1 Q Did you have any input with -- who</p> <p>2 typed it up?</p> <p>3 A Greg.</p> <p>4 Q Who did the evaluation?</p> <p>5 A Greg Henderson.</p> <p>6 Q And you had input with Greg?</p> <p>7 A Yes.</p> <p>8 Q So these type of performance</p> <p>9 evaluations, 10, 15, 14, and 12, that is a</p> <p>10 subjective view of what you believe a person is</p> <p>11 performing, correct?</p> <p>12 A Correct.</p> <p>13 Q So both you and Greg Henderson</p> <p>14 think that Mr. Bandy or Mr. Pernal or Mr. Smith are</p> <p>15 performing well?</p> <p>16 A Correct.</p> <p>17 Q Subjective, correct?</p> <p>18 A Correct.</p> <p>19 Q Now, let's look at this real</p> <p>20 quick. Let's look at Exhibit 11, which are the</p> <p>21 PIPs that we were talking about, performance</p> <p>22 improvement plans, the LMS, I believe?</p> <p>23 A Yes, the PIPs, yes.</p> <p>24 Q There are a couple others in</p>
<p style="text-align: right;">Page 94</p> <p>1 MR. CHAKRAVORTY: Is that all</p> <p>2 right, Tom?</p> <p>3 MR. STRELKA: Yes.</p> <p>4</p> <p>5 BY MR. CHAKRAVORTY:</p> <p>6 Q If you would look at Exhibits 10,</p> <p>7 12, 14, and 15, okay?</p> <p>8 A Okay.</p> <p>9 Q I think you have already testified</p> <p>10 to what they are, and the record reflects some of</p> <p>11 them are performance evaluations, yearly</p> <p>12 evaluations, for different people, correct?</p> <p>13 A Correct.</p> <p>14 Q On some of these, for example, I</p> <p>15 think 10 and 15 and -- maybe not 10. Maybe 12 and</p> <p>16 15, your signature -- well, not on 15. Let me back</p> <p>17 up.</p> <p>18 Did you sign any of these</p> <p>19 documents, to your knowledge?</p> <p>20 A Not to my knowledge.</p> <p>21 Q Did you have any role in these</p> <p>22 documents?</p> <p>23 A Just in reviewing the team members</p> <p>24 before he typed them up.</p>	<p style="text-align: right;">Page 96</p> <p>1 there, one dealing with Mr. Pernal and one dealing</p> <p>2 with Mr. Smith. And if you look at it, there are</p> <p>3 percentages. It talks about how the person is not</p> <p>4 meeting a percentage. Do you see that?</p> <p>5 A Yes.</p> <p>6 Q Where do those percentages come</p> <p>7 from?</p> <p>8 A They are from the assignment that</p> <p>9 the team member was doing while we observed them.</p> <p>10 Q For example, in Document 11 you</p> <p>11 see where it says that on 2/27/2010 he apparently</p> <p>12 was 63 percent, or that was his efficiency rate; is</p> <p>13 that correct?</p> <p>14 A Yes.</p> <p>15 Q That is what it indicates?</p> <p>16 A That is what it indicates.</p> <p>17 Q What do you typically want a team</p> <p>18 member to be?</p> <p>19 A 95 percent.</p> <p>20 Q So he was 32 percent below what</p> <p>21 you expected?</p> <p>22 A Correct.</p> <p>23 Q Now, did the 63 percent come from</p> <p>24 you? I mean, are you and Greg Henderson</p>

Page 97

1 subjectively sitting there going, It is 63 percent?

2 A No.

3 Q It is the computer, isn't it?

4 A Correct.

5 Q And the computer, to your

6 knowledge, doesn't know anyone's age?

7 A No.

8 Q So when you get that number, you

9 decide to put someone on a PIP not because of your

10 subjective evaluation of an individual, but it is

11 based on what the computer tells you what the

12 efficiency rate is, correct?

13 A Correct.

14 Q How do you get on a PIP?

15 A When you fail to meet the standard

16 that is in place, our expectations.

17 Q Is it on a four-week average

18 period?

19 A Yes.

20 Q So if the computer says based on

21 the numbers that the computer provides, it has

22 nothing to do with you or any other manager,

23 correct?

24 A Correct.

Page 98

1 Q So the computer provides a number.

2 If the computer spits out that over a four-week

3 period, it is under 95 percent, the person

4 automatically goes on PIP?

5 A Yes.

6 Q And then what happens once the

7 person gets on PIP?

8 A We do observations. And before

9 they are even put on the PIP, we are doing

10 observations on these team members.

11 Q Why are you doing observations?

12 A To coach them, to enhance their

13 performance, show them the good things, and what

14 they need to improve on.

15 Q But you are not coming up with --

16 for example, in this document, Number 11, where it

17 says someone is performing at 63 percent or

18 whatever, you are not the one coming up with the

19 percentage?

20 A No, I am not.

21 Q It's the computer?

22 A Correct.

23 Q Once they are on a PIP, are they

24 given time to try to improve?

Page 99

1 A Yes.

2 Q How much time are they given?

3 A They are given a six-week period.

4 Q What happens if they don't

5 improve?

6 A It leads to termination.

7 Q You made a comment earlier that

8 the documents speak for themselves?

9 A Correct.

10 Q So when you are talking about the

11 documents speak for themselves, you are talking

12 about the fact that you have a policy in place,

13 right?

14 A Correct.

15 Q That if you don't meet a certain

16 goal, you are going to put on a PIP. And then if

17 you still can't meet the goal, the efficiency rate,

18 you are going to get terminated?

19 A Correct.

20 Q Is that what happened with

21 Mr. Pernal and Mr. Smith?

22 A Correct.

23 Q It had nothing to do with your

24 subjective view of how the person was performing?

Page 100

1 A Not at all.

2 Q It had something to do with the

3 computer which is used by Advance to suggest as to

4 whether or not -- what they were coding in, I

5 guess; is that correct?

6 A That's correct.

7 Q By the way, on this one -- I think

8 this is Number 11, Exhibit 11 for Carl Pernal. It

9 says final corrective interview, is that correct,

10 that document?

11 A Yes.

12 Q That is not the termination

13 document, is it?

14 A No, it's not.

15 Q So there would have been another

16 one. He would have been put on an initial plan,

17 correct?

18 A Yes.

19 Q Because he couldn't meet the

20 numbers?

21 A Right.

22 Q Then he was given this corrective

23 interview, the document we are looking at, Number

24 11, because he still wasn't meeting the numbers,

Page 101

1 correct?
 2 A That's correct.
 3 Q Then he was still given more time
 4 to improve before he was terminated, correct?
 5 A He had another week, yes, sir.
 6 Q If he had improved at any time
 7 during this process, would he have been terminated?
 8 A No, if he had maintained an
 9 increase showing that he was steadily getting up to
 10 that 95 percent.
 11 Q So he could have improved his own
 12 performance and saved his job?
 13 MR. STRELKA: Object to
 14 speculation.
 15 THE WITNESS: Yes.
 16
 17 BY MR. CHAKRAVORTY:
 18 Q Just like anyone else?
 19 A Correct.
 20 Q Does this computer system, the
 21 percentages, do you know if age is any factor in
 22 that system?
 23 A It is not.
 24 Q So a person who is 20 or a person

Page 102

1 who is 80, if they are producing they are fine; if
 2 they are not they are not. Correct?
 3 A That's correct.
 4 Q Would it be fair to say that the
 5 evaluations we looked at -- for example, 15, which
 6 I think you have already said is subjective --
 7 A Correct.
 8 Q -- is different than the PIP,
 9 which is objective in the sense that you are
 10 dealing with hard numbers. Would that be a correct
 11 assessment?
 12 A That's correct.
 13 MR. CHAKRAVORTY: I don't have
 14 anything further.
 15
 16 EXAMINATION
 17
 18 BY MR. STRELKA:
 19 Q I just have a very few, maybe just
 20 one or two. How many employees, Ms. Myers, work in
 21 the reclamation department?
 22 A We have 32.
 23 Q During the day, during the
 24 workdays, are those employees split equally among

Page 103

1 the different areas?
 2 A Not equally, no.
 3 Q Could you describe to me what
 4 areas would require more employees than others?
 5 A It varies depending on what
 6 product we are getting back. It could be that we
 7 need more in cores if the cores are being returned
 8 heavy. Overstock right now is really coming back
 9 heavy, so it is requiring extra attention. There
 10 is times when callbacks are really hitting us that
 11 we have to have extra manpower there.
 12 So it is really on a daily basis
 13 as to how we distribute the people. I don't have a
 14 set -- that I have five people here, five there.
 15 Q Who determines how the employees
 16 are to be distributed in the reclamation
 17 department?
 18 A I do. On a daily basis my manager
 19 and I go over our workload.
 20 Q And when you say your manager, who
 21 are you referring to again?
 22 A My manager now is Nick Jones.
 23 Q And in 2009?
 24 A Greg Henderson.

Page 104

1 Q 2010?
 2 A Greg Henderson.
 3 MR. STRELKA: I hope you have a
 4 good vacation. Thank you.
 5 MR. CHAKRAVORTY: One last thing.
 6 You have a chance to either read or waive
 7 signature. What that means is the court
 8 reporter is great, but like me -- unlike
 9 Tom, who never makes a mistake -- she may
 10 not know a word. I know she has been
 11 asking you questions, how to spell
 12 something.
 13 You can read to make sure that
 14 everything you have said is correct,
 15 okay? Or you can waive, which means you
 16 trust that she is a good reporter. The
 17 choice is yours. What I would recommend,
 18 but the choice is yours, is that you read
 19 it just to make sure.
 20 THE WITNESS: Okay.
 21 (4:10 p.m.)
 22 FURTHER THE DEPONENT SAITH NOT.
 23
 24

* * * * *

PAGE	LINE	CHANGE	REASON FOR CHANGE
------	------	--------	-------------------

Witness

Page 108

My Commission expires January 31, 2014. # 165417
I was commissioned as Patricia A. Brown

ERRATA SHEET

DEPOSITION OF: BARBARA MYERS

IN THE MATTER OF: BANDY v. ADVANCE AUTO PARTS, INC.

JULY 24, 2012

I have read the foregoing deposition and wish to
make the following changes.

PAGE	LINE	CHANGE	REASON FOR CHANGE
34	12	Rexrode	Spelling incorrect
34	16	Rexrode	Spelling incorrect
34	22	Rexrode	Spelling incorrect

Barbara V. Myers 8-20-12
Witness